

DISCUSSION

1
2 The issue before the Board is whether Appellant is liable for the tax assessed. The presumption
3 is that the assessment is correct, and Appellant bears the burden of overcoming that presumption. See
4 *Arizona State Tax Commission v. Kieckhefer*, 67 Ariz. 102, 191 P.2d 729 (1948).

5 A.R.S. § 43-1071 provides that Arizona residents may claim a credit for net income tax imposed
6 by and paid to another state. The underlying income that the tax is based upon must be derived from
7 sources within that state and must be taxable irrespective of the resident of recipient. A.R.S. § 43-
8 1071(A)(1). Subsection (A)(3) of the statute further provides that "[t]he credit shall not exceed such
9 proportion of the tax payable under this chapter as the income subject to tax in the other state . . . and
10 also taxable under this title bears to the taxpayer's entire income upon which the tax is imposed by this
11 chapter.

12 During 1998, rule R15-2-1071 of the Arizona Administrative Code ("AAC") (currently, A.A.C. R15-
13 2C-501) defined the phrase "[i]ncome subject to tax " to mean the Arizona adjusted gross income as
14 calculated pursuant to A.R.S. § 43-1001, but not including allowable exemptions as delineated in A.R.S. §
15 43-1023. Accordingly, when adjusting the credit claimed by Appellants for tax year 1998, the Department
16 calculated the proper proportion pursuant to A.R.S. § 43-1071(A)(3) by adding all exemptions back to
17 Appellants' Arizona adjusted gross income. The resulting figure was the denominator used to calculate
18 the credit. The numerator used was income taxable by Arizona and also subject to tax in other states.
19 The Department performed this calculation on each state subject to the tax credit. The percentage
20 obtained in performing this calculation was multiplied by the Arizona tax liability and the result was the
21 amount allowed by the Department as the credit for taxes paid to other states.

22 Appellants note that, under A.R.S. § 43-1001(11), "[t]axable income" of a resident is defined as
23 Arizona adjusted gross income less the exemptions and deductions allowed under applicable law. They
24 argue that a reasonable person would define "[i]ncome subject to tax" to mean the same. In fact, during
25 an audit of Appellants' 1992 return focusing on the same credit, the auditor adopted this interpretation.

1 However, this audit occurred prior to the adoption of A.A.C. R15-2-1071, which became effective January
2 25, 1995.¹

3 The Director of the Department has the authority to promulgate administrative rules he deems
4 necessary and proper to effectively administer the Department and enforce the tax statutes. A.R.S. § 42-
5 1005(A)(1). And it is a well-settled principle that an agency's interpretation of a statute is entitled to great
6 weight. *Marlar v. State*, 136 Ariz. 404, 666 P.2 504 (App. 1893). Line 9 of the 1998 Arizona Form 309
7 used by Appellants explains the method for calculating the credit, directing taxpayers to enter their
8 Arizona adjusted gross income excluding allowable exemptions. See, also, Arizona Individual Income
9 Tax Procedure ITP 97-1.

10 Accordingly, the Board finds that the Department properly calculated the credit pursuant to both
11 A.R.S. § 43-1071 and A.A.C. R15-2-1071(A)(2). Therefore, Appellants are liable for the tax assessed.²

12 The interest at issue is made a part of the tax by statute and represents a reasonable interest rate
13 on the tax due; therefore, it may not be abated. A.R.S. § 42-1123; *Biles v. Robey*, 43 Ariz. 276, 286, 30
14 P.2d 841 (1934).

15 CONCLUSIONS OF LAW

16 1. Appellants are liable for the tax assessed. See A.R.S. § 43-1071; A.A.C. R15-2-1071(A)(2).

17 2. The interest imposed represents a reasonable interest rate on the tax due and owing and is
18 made part of the tax by statute; therefore, it may not be abated. *Biles v. Robey*, 43 Ariz. 276, 286, 30
19 P.2d 841 (1934).

20 ORDER

21 THEREFORE, IT IS HEREBY ORDERED that the appeal is denied, and the final order of the
22 Department is affirmed.

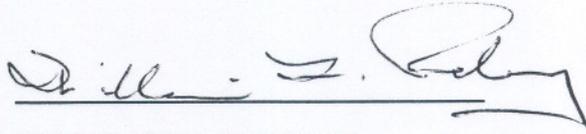
23 _____
24 ¹ Because Appellants calculated their credit using the formula used by the auditor in 1992, the Department abated the
late payment penalty originally assessed.

25 ² Appellants were granted 45 days after the hearing to submit composite return information identifying taxable income
for each state to be used in the credit computation. The information eventually filed was untimely; therefore, it was
not considered by the Board. However, the information was not significantly different from that previously provided to
the Board.

1 This decision becomes final upon the expiration of thirty (30) days from receipt by the taxpayer,
2 unless either the State or taxpayer brings an action in superior court as provided in A.R.S. § 42-1254.

3 DATED this 11th day of March, 2003.

4 STATE BOARD OF TAX APPEALS

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6

7 William L. Raby, Chairperson

8 WLR:ALW

9 CERTIFIED

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